

ORDINANCE NO. _____, SERIES 2024

AN ORDINANCE AMENDING A SECTION OF CHAPTER 35 OF THE LOUISVILLE METRO CODE OF ORDINANCES EXPANDING PAID FAMILY LEAVE.

SPONSORED BY: COUNCIL MEMBERS BEN RENO-WEBER, JECOREY ARTHUR, AND JENNIFER CHAPPELL

WHEREAS, Louisville Metro Government seeks to constantly improve and update benefits for its employees in order to recruit talented people who are successful in their fields to join Louisville Metro Government and to encourage existing employees to continue working for the city;

WHEREAS, Louisville Metro Government passed Louisville Metro Code of Ordinances (“LMCO”) § 35.014 on April 13, 2021 allowing employees up to twelve (12) weeks of paid leave if they meet certain criteria, including if they are the biological parent of a newly born child, fostering a child while pending adoption or the legal guardian/adoptive parent of an adopted child;

WHEREAS, LMCO § 35.014 currently gives two (2) weeks of paid leave to Louisville Metro Government employees who have a child placed with them via kinship placement;

WHEREAS, between 2016 and 2018, Kentucky had the highest rate of children raised in kinship care at nine percent or 96,000 children.¹ This is double the national average at four percent.² Over one-third of these children are under the age of six;³

¹ Kentucky Youth Advocates, *New Data Shows Increasing Number of Kentucky Children Living with Relative Caregivers*, Child Welfare and Safety, Newsroom (Oct. 15, 2018), <https://kyyouth.org/new-data-shows-increasing-number-of-kentucky-children-living-with-relative-caregivers/>

² *Id.*

³ *Family Values in Kentucky Are More Than Just Talk*, Kinship Families Coalition of Kentucky, https://kinshipky.org/wp-content/uploads/2014/09/KinshipCareInfographic_BLOG_2.pdf

WHEREAS, the majority of these children are raised by their grandparents and about one-half of these grandparents are still in the labor force;⁴

WHEREAS, kinship placement allows children to maintain connections to their family members, traditions and identity, and in many cases enables siblings to remain together.⁵ Additionally, children in kinship care have more stable living situations than those in non-kin foster care placement and are less likely to experience multiple placements and changes in schools and communities;⁶

WHEREAS, not only are children in kinship care usually familiar with their caregivers and therefore less traumatized by moving into kin care, but often also express feeling loved;⁷

WHEREAS, research indicates that kinship caregiving saves taxpayers billions as compared to other placement options;⁸

WHEREAS, despite the significant benefits of kinship placement, kinship families continue to face significant challenges such as assistance obtaining counseling, financial assistance, affordable housing and respite care.⁹ The lack of a legal relationship can impede the ability to obtain such services;¹⁰

WHEREAS, due to the significant benefits of kinship placement, as compared to other options, Metro Council wishes to promote and support kinship placement; and

⁴ *Id.*

⁵ Donna M. Butts, *Kinship Care: Supporting Those Who Raise Our Children*, Intergenerational Strategies Series (2005), <https://assets.aecf.org/m/resourcedoc/aecf-KinshipCareSupportingThoseRaisingOurChildren-2005.pdf>

⁶ *Id.*

⁷ *Id.*

⁸ *Id.*

⁹ *Id.*

¹⁰ *Id.*

WHEREAS, giving individuals taking on the role of custodian through kinship placement, especially when the placement is or will be permanent, twelve weeks of paid leave is beneficial and will help support these families during what is a normally a difficult time.

NOW THEREFORE, BE IT ORDAINED BY THE LEGISLATIVE COUNCIL OF THE LOUISVILLE/JEFFERSON COUNTY METRO GOVERNMENT AS FOLLOWS:

SECTION I: Section Chapter 35 of the Louisville Metro Code of Ordinances is amended as follows:

§ 35.014 PAID FAMILY LEAVE

(A) *Paid Parental Leave.* All regular and appointed Louisville Metro Government (“Metro”) employees shall be granted paid parental leave due to the birth of the employee’s child or the placement within the employee’s home of an adopted child in accordance with the following provisions:

(1) To be eligible for parental leave, employees must be full-time or part-time employees who have been employed for at least twelve (12) months by the date the leave is to commence and have worked at least 1,250 hours during the twelve (12) month period immediately preceding the beginning of the leave.

(2) ~~Employees must be the biological parent of a newly born child, fostering a child while pending adoption or the legal guardian/adoptive parent of an adopted child and reside in the same household as the child~~ and one of the following:

- a. is the biological parent of a newly born child; or
- b. is fostering a child while pending adoption; or
- c. is the legal guardian/adoptive parent of an adopted child; or
- d. has permanent custody of a child through a court order; or
- e. has temporary custody of a child through a court order and has filed a motion for permanent custody of the child.

(3) An eligible employee will receive up to twelve (12) weeks of pay at 100% of the employee’s base pay per birth or adoption event.

(4) Multiple births, custodies or adoptions do not increase the length of leave granted for the birth, custodial or adoption event.

(5) Leave will be based on the employee's certified normal rate of pay, not including premiums or overtime.

(6) If both parents work for Metro, both parents are eligible for parental leave, and such leave may be taken either concurrently or consecutively.

(7) Parental leave under the policy must be utilized within six (6) months following the birth, ~~or adoption,~~ court ordered permanent custody or motion for permanent custody of a child. If the leave is not used by the employee before the end of the six (6) month period, it shall not accumulate for any subsequent use. Paid parental leave will not reduce eligibility for other types of paid and unpaid leaves such as sick leave, vacation, personal leave, holiday and short-term disability. An employee may be eligible for this benefit no more than one time in a twelve (12) month period.

(8) An eligible employee must submit a completed Employee Request for Family and Medical Leave Form, requesting FML leave to the Human Resources Benefits Office at least thirty (30) days prior to the anticipated date of the leave. To the extent the thirty (30) day notice is not possible, the employee must submit a completed Employee Request for Family and Medical Leave Form to the Human Resources Benefits Office as soon as possible.

(9) An eligible employee will be required to furnish appropriate medical documentation for the birth of a child. If applicable, the medical certification requirements for FML leave will govern. The medical documentation must be completed and signed by the individual's health care provider.

(10) An eligible employee will be required to furnish appropriate adoption documentation, such as a letter from an adoption agency, or from the attorney in cases of private adoptions.

(11) An eligible employee will be required to furnish appropriate documents for court ordered custodianship, such as a court order for permanent custody or a court order for temporary custody with a motion for permanent custody.

(142) An eligible employee may not take leave under this paragraph unless the employee agrees (in writing), before the commencement of such leave, to work for the applicable employing agency for not less than a period of 12 week beginning on the date such leave concludes.

a. The head of the agency shall waive this requirement in any instance where the employee is unable to return to work because of the continuation, recurrence, or onset of a serious health condition (including mental health), related to the applicable birth or placement of a child, of the employee or the child.

b. The head of the employing agency may require that an employee who claims to be unable to return to work because of a health condition

provide certification supporting such claim by the health care provider of the employee or the child. The employee shall provide such certification to the head in a timely manner.

c. If an employee fails to return from paid leave provided under this Act after the date such leave concludes, the employing agency may recover from the employee an amount equal to the total amount of Metro's contributions paid on behalf of the employee for maintaining such employee's health coverage during the period of such leave.

d. Subparagraph 11(c) shall not apply to any employee who fails to return from such leave due to:

1. the continuation, recurrence, or onset of a serious health condition as described under, and consistent with the requirements of, subparagraphs 11(a) and (b).

2. any other circumstance beyond the control of the employee.

(123) Sperm donors are excluded from coverage under this policy. Surrogate mothers and biological parents who elect to place their newborn child/children for adoption are covered under this policy for as long as the newly born child resides in their household. Stepparent adoptions are excluded from coverage under this policy.

(134) A fraudulent request for paid parental leave shall be grounds for serious disciplinary action, up to and including termination of employment.

(145) During any leave taken under the provisions of this Ordinance, the employer shall maintain any health care benefits the covered individual had prior to taking such leave for the duration of the leave as if the covered individual had continued in employment continuously from the date they commenced the leave until the date the leave benefits terminate; provided, however, that the covered individual shall continue to pay the covered individual's share of the cost of health benefits as required prior to the commencement of the leave.

(B). Paid Leave for Families of Circumstance

(1). *Definitions.* For purposes of this section, the following definitions shall apply:

FOSTER CARE. Foster Care means a new, temporary living arrangement in the employee's home for a minor child provided through a state-certified Foster Care program. Placement in the employee's home is made by or with the agreement of the State and involves a minor child who is in the legal or physical custody and care of the State. Although Foster Care may be with relatives of the child, State action is involved in the removal of the child from parental custody.

KINSHIP PLACEMENT. Kinship placement means the temporary placement of a minor with a relative or fictive kin by a court order.

FICTIVE KIN. Fictive kin are individuals not related by birth, adoption, or marriage to a child, but who have an emotionally significant relationship with the child, or an emotionally significant relationship with a biological parent, siblings, or half-siblings of the child.

(2). Upon placement of a child in foster care or kinship placement, an employee is entitled to two weeks paid leave to provide the necessary support. An employee is only entitled to this type of leave once per employment cycle regardless of the number of placements within the employee's home during that cycle.

(3). An eligible employee is required to furnish appropriate foster care or kinship placement documentation, such as a court order or a letter from a state-certified Foster Care Program.

~~____ (4). All other provisions of this Section apply.~~

(4). Any employee who takes leave under this Subsection and later becomes eligible for twelve (12) weeks paid leave pursuant to Subsection A, shall only be allowed a total of twelve (12) weeks paid leave per employment cycle.

SECTION II: This Ordinance shall take effect upon its passage and approval or otherwise becoming law.

Sonya Harward
Metro Council Clerk

Marcus Winkler
President of the Council

Craig Greenberg
Mayor

Approval Date

APPROVED AS TO FORM AND LEGALITY:
Michael J. O'Connell
Jefferson County Attorney

BY: _____
Paid Parental Leave Ordinance Amendments NJ 8-30-23